

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

## UNITED STATES PATENT AND TRADEMARK OFFICE

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### BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

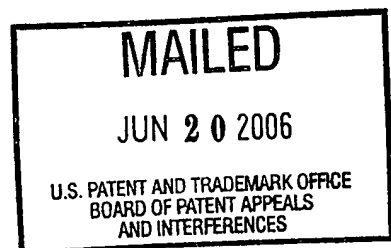
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Ex parte DANIEL M. CIMBORA,  
KAREN HEICHMAN, and  
PAUL L. BARTEL

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Application No. 10/035,344

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### ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on June 6, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On November 10, 2005, appellants filed an Appeal Brief under the rules set forth in 37 CFR § 1.192(c). The rules under 37 CFR § 1.192(c) were abolished on September 13, 2004, and replaced by 37 CFR § 41.37(c), which states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply

with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

....

(v) Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each claim involved in the appeal, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(vi) Grounds of rejection to be reviewed on appeal. A concise statement of each ground of rejection presented for review.

The following sections are missing from the Appeal Brief filed November 10, 2005:

(1) "Summary of claimed subject matter" as set forth in 37 CFR § 41.37(c)(1)(v);  
and

(2) "Grounds of rejection to be reviewed on appeal" as set forth in 37 CFR § 41.37(c)(1)(vi).

Accordingly, the Appeal Brief filed on November 10, 2005 does not comply with the new rules under 37 CFR § 41.37(c). It is required that a substitute Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c). For more information on the Board's new rules, please see the web page entitled "More Information on the Rules of Practice Before the BPAI," Final Rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>

Accordingly, it is

ORDERED that the application is returned to the examiner to:

- (1) hold the Appeal Brief filed on November 10, 2005 defective;
- (2) notify appellants to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- (3) have a complete copy of the substitute Appeal Brief scanned into the record;
- (4) provide written notification to appellants; and
- (5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES



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Dale M. Shaw  
Deputy Chief Appeal Administrator  
(571) 272-9797

Myriad Genetics Inc.  
Intellectual Property Department  
320 Wakara Way  
Salt Lake City, Utah 84108

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